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Acting United States Trustee for Region 18, Plaintiff

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF OREGON**

In re

Peter Szanto,

Debtor.

United States Trustee,

Plaintiff,

v.

Peter Szanto,

Defendant.

Case No. 16-33185-pcm7

Adversary No. 18-03022-pcm

**UNITED STATES TRUSTEE'S  
OBJECTION TO DEFENDANT'S  
MOTION TO DISMISS**

The Acting United States Trustee for Region 18, Gregory M. Garvin (the "United States Trustee"), the plaintiff in the above-referenced adversary proceeding, hereby objects to the Motion for Terminating Sanctions for Plaintiff's Continuing Discovery Abuses (the "Motion") filed on February 28, 2019, by Peter Szanto (the "Defendant") as ECF document no. 176. This objection is supported by the declarations of Martin L. Smith (the "Smith Decl.") and Frank Cadigan (the Cadigan Decl.), each filed concurrently herewith.

The Motion seeks to have the above-captioned adversary proceeding dismissed for what the Defendant alleges are discovery abuses by the United States Trustee. The perceived abuse is that, as discussed below, the United States Trustee made a simple typographical mistake in a recent letter. The Defendant has not been prejudiced, and the Motion should be denied.

Attached as Exhibit F to the Motion is a copy of a letter dated February 7, 2019, from the United States Trustee to the Defendant. The Motion indicates that the telephone number in the Letter is incorrect, and he is right. That is because the numbers in the area code for the Santa Ana office of the United States Trustee were inadvertently transposed to 741, instead of the correct area code of 714. The Defendant lives approximately 13 miles from the United States Trustee's Santa Ana office and presumably knew the correct area code, or could have easily determined it. Instead, he filed the Motion. Upon learning of the mistake, the United States Trustee immediately sent the Defendant an email apologizing for the error and confirming the availability of certain documents the United States Trustee continues to try and produce to the Defendant. A copy of the email is attached to the Smith Decl. as Exhibit A.

The Motion also asserts that the Defendant went to the United States Trustee's Santa Ana office on February 25th, and he was unable to obtain the documents. As reflected in the Cadigan Decl., ¶ 6, it appears that the Defendant did not, in fact, go to the office that day. The documents are in a box with the Defendant's name on it by the front glass window. *Id.* at ¶ 5. If he had been at the Santa Ana office he would have seen the document box with his name on it through the front window, and anyone there could have helped him retrieve them.

In conclusion, the United States Trustee made an inadvertent good-faith mistake when the area code numbers in the letter were transposed. However, an email to the United States Trustee, or an internet search for the correct area code, would have solved the problem very

quickly without the need for the Motion. The United States Trustee respectfully requests that it be denied without hearing.

DATED this 1<sup>st</sup> day of March, 2019.

Respectfully submitted,  
GREGORY M. GARVIN  
Acting United States Trustee for Region 18

/s/ Martin L. Smith  
Martin L. Smith, WSBA #24861  
Trial Attorney

# **CERTIFICATE OF SERVICE**

I hereby certify that on March 1, 2019, I served a copy of the foregoing UNITED STATES TRUSTEE'S OBJECTION TO DEFENDANT'S MOTION TO DISMISS by mailing a copy of this document, by United States first class mail, postage prepaid, addressed to the following:

Peter Szanto  
11 Shore Pine  
Newport Beach, CA 92657

GREGORY M. GARVIN  
Acting United States Trustee for Region 18

/s/ Cori Gustafson  
Cori Gustafson  
Paralegal